

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 28, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF: 06OD-135

OAHU

Department of Hawaiian Home Lands, by its Hawaiian Homes Commission,
Requests the Fee Simple Conveyance of State-Owned Land Situate at
Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-08: 10, 81, 91 and 92

APPLICANT:

Department of Hawaiian Home Lands (DHHL) by its Hawaiian Homes Commission.

LEGAL REFERENCE:

Section 171-95(a)(1), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of the Government (Crown) Land of Waimanalo, situate at Waimanalo, Koolaupoko, Oahu, identified by TMK: (1) 4-1-08: 10, 81, 91 and 92 as shown on the attached map labeled Exhibit A.

AREA:

The four (4) parcels total seven (7) acres, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

Parcel 10 contains one (1) acre and parcels 81, 91 and 92 contain two (2) acres each.

ZONING:

State Land Use District:	Agriculture
City and County of Honolulu:	AG-1, restricted agriculture

TRUST LAND STATUS:

Section 5(b) of the Hawaii Admission Act.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

No

ITEM D-4

CURRENT USE STATUS:

Parcel 92 is encumbered by Revocable Permit No. S-6653 to Gideon K. Kaonohi, Jr. for agricultural and pasture purposes.

Parcels 10, 81 and 91 are vacant and unencumbered.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

This request before the Board to transfer the ownership of State land is an administrative action and does not constitute a use of State land or funds, and therefore, is exempt from the provisions of Chapter 343, Hawaii Revised Statutes, as amended. Inasmuch as the Chapter 343 environmental requirements apply to the Applicant's use of the land, the Applicant shall be responsible for compliance with Chapter 343, Hawaii Revised Statutes, as amended.

APPLICANT'S REQUIREMENTS:

The Applicant shall submit to the Department a survey map, together with a metes and bounds description, covering the subject 7 acres.

REMARKS:

At its December 2, 1988 meeting, under agenda item F-4, the Board approved a public auction sale of a 15-year lease for agricultural purposes covering the subject premises. The auction was never conducted.

Additionally, at the same meeting, the Board authorized the issuance of revocable permits covering the premises during the interim to insure that the premises would be properly maintained. Since then, all of the permittees except one has vacated their permit areas, leaving five (5) acres of the seven (7) acre site vacant and unencumbered.

The vacant and unencumbered portion of the site has been used to illegally dump trash, which has included abandoned vehicles that the Land Division had removed.

DHHL is requesting the site to develop residential homesteads in lieu of an equal amount of land it chose at Lalamilo, on the island of Hawaii, pursuant to a 16,518-acre settlement agreement between the State and DHHL.

Under the settlement agreement the State will convey the fee simple interest of 16,518 acres of State-owned land at locations statewide to DHHL. The 16,518 acres represents the difference, in 1994, between DHHL's actual land inventory and the 203,500 acres mandated by the Hawaiian Homes Commission Act of 1920. About 800 acres at Lalamilo, Hawaii, is all that remains to be transferred to DHHL to complete the settlement agreement.

However, according to DHHL it needs more land on Oahu in order to satisfy its Oahu demand. Between 300 and 600 additional acres, it estimates, is needed on Oahu to accommodate that demand.

By way of background, the missing 16,518 acres from DHHL's land inventory is one of several claims by DHHL that the State is attempting to resolve. Since 1994 when then governor, John Waihee, in his State of the State speech, called for the transfer of 16,518 acres of State lands to

DHHL to make its land trust whole, the State has transferred about 95% of that acreage to DHHL.

In developing the list of State lands to transfer, DHHL and DLNR collaborated in identifying useable lands for homesteading and income generating purposes, especially in locations where DHHL lacked lands. Some adjustments would be necessary for subdivision, access, and in some cases depend on availability of the property. Realizing this, two (2) large parcels (500 acres at Keahole and 2,105 acres at Lalamilo) were part of the final list and were to be conveyed last in order to reconcile for any adjustments so that the total conveyance to DHHL was 16,518 acres.

At its October 28, 1994 meeting, the Board approved the final list of State lands. Subsequently, the process of conveying the lands to DHHL commenced.

In 1997, DHHL requested amending the list by including additional land on Oahu to replace listed acreage at Waiahole no longer available to DHHL. The request also included five (5) State-owned Oahu properties that DHHL proposed as replacements.

Prior commitments by the Housing and Community Development Corporation of Hawaii (HCDCH), the State's housing agency and developer of the Waiahole Residential and Agricultural Lots, reduced the number of acres available to DHHL in the said development to 19 compared to the 82 acres that had been earlier estimated as available for conveyance to DHHL.

Staff opposed the DHHL request to amend the list of State lands available to DHHL because (1) it would delay completion of the 16,518-acre settlement agreement, and (2) the inclusion of lands at Keahole and Lalamilo, Hawaii on the list was intended to cover any shortage to the 16,518 acres. Staff's preference was to complete the conveyances pursuant to the agreement and to process other requests by DHHL for land separately from the on-going conveyance of the 16,518 acres. At the time of DHHL's request for replacement lands on Oahu a majority of the 16,518 acres had already been conveyed to DHHL.

In response to number (2) above DHHL pointed out that it did not have sufficient land on Oahu to meet its Oahu demand for homesteads, and therefore, the loss of any Oahu land would have a major adverse impact on its Oahu homestead program.

Because then Chairperson, Michael Wilson agreed to bring DHHL's request to amend the list back to the Board for consideration staff offered criteria it thought appropriate for determining which additional lands being requested by DHHL should be conveyed. Staff believed that only lands that would be included in a "planned DHHL housing development" should be considered. Income producing properties and individual agricultural lots should not be considered because they would compete with our programs on the leasing of public lands.

The Board approved DHHL's request at its April 9, 1998 meeting, under agenda item D-24.

Staff notes that DHHL's current request for additional land at Waimanalo does meet the criteria that staff suggested at the Board's April 9, 1998 meeting, under agenda item D-24, as DHHL plans call for a housing subdivision on the requested Waimanalo site. However, staff also notes that the Board, at that meeting, approved DHHL's request to amend the list with the added condition that "There shall be no further amendments to the 16,518-acre conveyance of property to DHHL..."

Staff's preference is still to bring closure to the agreement, as amended by the Board on April 9, 1998, and treat DHHL's request for additional lands separate from the agreement.

Comments regarding this request by DHHL were solicited from the Department of Agriculture, the Department of Land and Natural Resources, Historic Preservation and Water Resource Management Divisions, the University of Hawaii, College of Tropical Agriculture, the Office of Hawaiian Affairs, the City and County of Honolulu's Departments of Planning and Permitting, Facilities Maintenance, Environmental Services and the Board of Water Supply and the Waimanalo Agricultural Association.

The following comments were received from:

City and County of Honolulu, Department of Planning and Permitting: "We acknowledge the right of Hawaiian Home Lands (DHHL) to override county land use controls, which places the site in the AG-1 Restricted Agricultural District. However, the subject site appears to be outside of the Koolaupoko Sustainable Community Plan's "Rural Community Boundary," which acts to define and contain established communities in rural areas and to protect existing agricultural areas. Thus, we encourage DHHL to consider using this site to provide agricultural homesteads for those DHHL beneficiaries who are interested in such opportunities."

Waimanalo Agricultural Association (WAA): "WAA understands the DHHL's quest for land to award housing and homesteads to people who have been on a waiting list for years. However, we are an association dedicated to preserving and perpetuating agriculture in Waimanalo. Therefore, we are adamantly against this land swap."

"We are an island state with only a finite number of acres zoned for agricultural. Once you rezone and take the land out of agriculture, it is gone forever. Tests were done on the soil on this property and it was found to contain high nutrients suitable for farmland. Even the grass needs no fertilizer and thrives with no added nourishment. Several inquiries were made to ask about auctioning this property with no one from DLNR responding. WAA feels that there is a need for this housing project, but it should be developed on land not suitable for farming. Please reconsider this exchange and find a more appropriate site to build more homes."

Office of Hawaiian Affairs: " Our staff has no comment specific to the above-listed proposed land transfer."

The Board of Water Supply: "The Board of Water Supply (BWS) has no objection to the conveyance of the subject properties to the Department of Hawaiian Home Lands."

"HHL has noted that the portion from the end of Mekia Street to Kakaina Street shall be omitted from the conveyance. For the records, the BWS has an easement for water pipeline purposes over said portion, as granted by DLNR, dated December 14, 2000, and recorded as Document No. 2000-175990. A copy of the easement map is enclosed for your reference."

RECOMMENDATION:


Should the Board be inclined to approve DHHL's current request for the conveyance of the subject State land at Waimanalo, then staff recommends the Board's approval be subject to the following:

1. The standard terms and conditions of the most current Land Patent Grant form as may be amended from time to time.
2. DHHL accepts the land as is.
3. When subdividing the subject land DHHL shall not create any lots or remnants for retention under the ownership of the Department of Land and Natural Resources.
4. Review and approval by the Department of the Attorney General.
5. Authorize the application of the subject State-owned land upon its conveyance to DHHL as an acre for acre reduction of the remaining acreage to be conveyed to DHHL in satisfaction of the settlement agreement.
6. Authorize the cancellation of Revocable Permit No. S-6653.
7. Rescind the Board's prior action of December 2, 1988, agenda item F-4, approving the sale of a lease at public auction covering the subject land.
8. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

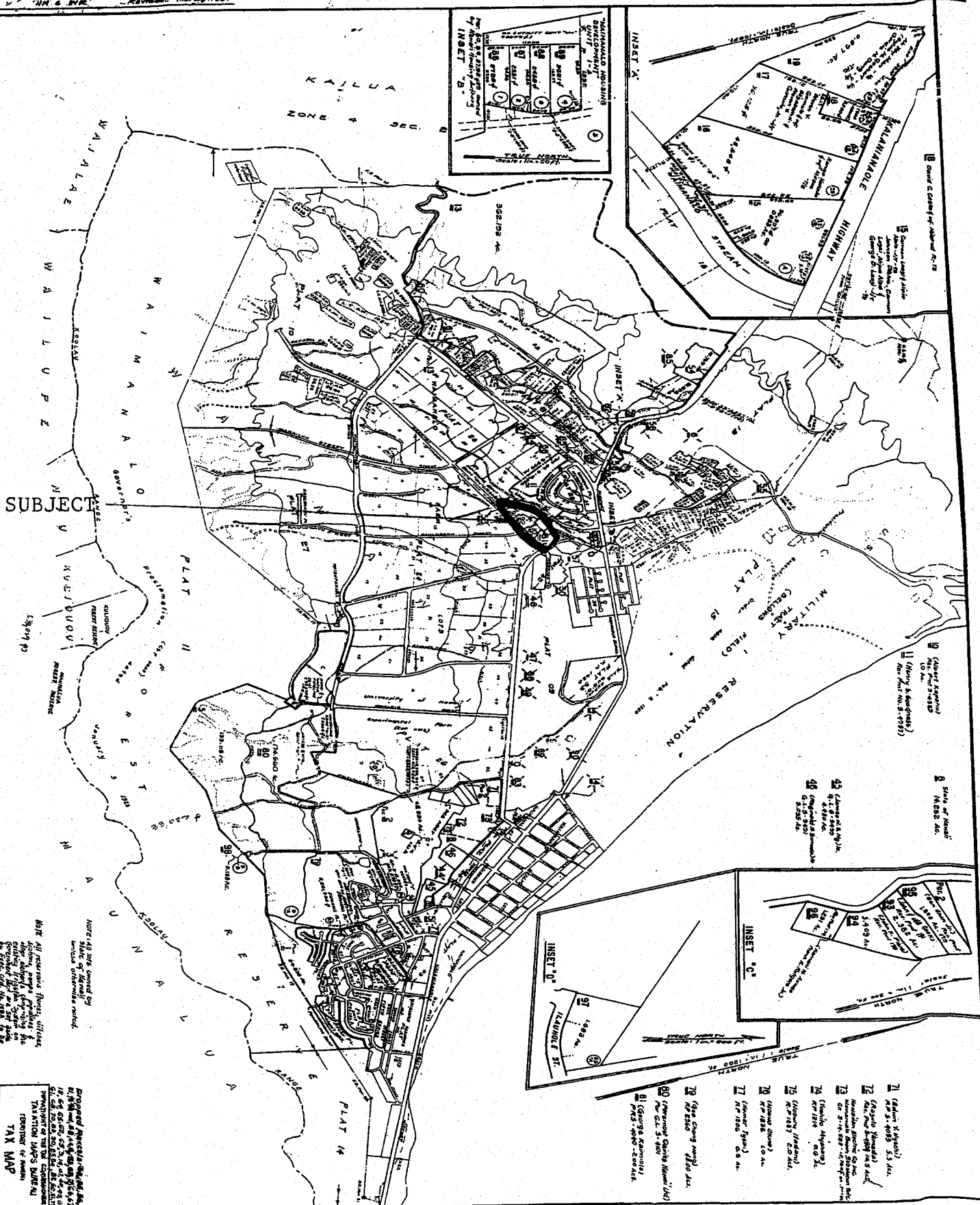
Respectfully Submitted,


Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

DWG. NO. 3401
SOURCE: N.Y.B. PLAT 2188
BY: H.N. & H.N. REVISION: MAR 27/57



SUBJECT TO CHANGE

PROPERTY ADDRESS: 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915		
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EXHIBIT "A"

